

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

WP(C).No. 34101 of 2006(I)

PETITIONER:

RAMACHANDRAN.K., S/O.C.H.KUNHIRAMAN,
CHANDERA, MANIYAT P.O., THRIKKARIPUR VIA,
KASARGOD.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS:

1. STATE OF KERALA, REP. BY THE
SECRETARY, DEPARTMENT OF HOME AFFAIRS,
SECRETARIAT, THIRUVANANTHAPURAM.
2. DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, THIRUVANANTHAPURAM.
3. THE SUPERINTENDENT OF POLICE,
KASARGOD.
4. THE SUPERINTENDENT OF POLICE,
CRIME BRANCH, KASARGOD.
5. THE DEPUTY SUPERINTENDENT OF POLICE,
D C R B KASARGOD.
6. THE SUB INSPECTOR OF POLICE,
CHANDERA, KASARGOD.
7. THE SUPERINTENDENT OF POLICE,
CBI, KOCHI.

BY GOVERNMENT PLEADER SRI.GIKKU JACOB
SRI.S.SREEKUMAR, SC FOR CBI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

R.BASANT, J

W.P(C).No.34101 of 2006

Dated this the 26th day of July, 2007

JUDGMENT

The petitioner is the father of deceased Anilkumar, whose body was found on the railway track near Cheruvathur Police Station on the morning on 04.11.2003. A crime was registered under the caption “unnatural death”. Investigation was conducted and final report was submitted before the Sub Divisional Magistrate to report that it was a case of suicide – run over by train. The Sub Divisional Magistrate had accepted the said report. Further investigation was conducted, in which the said conclusion was again confirmed. The petitioner has come to the Court aggrieved by the investigation conducted with a prayer that the investigation may be handed over to the C.B.I.

2. The petitioner's son was a graduate with B.Ed. Qualification. He did not take to conventional teaching. Instead, he was running a driving school. In the said driving school, there were facilities for teaching driving to women candidates also. A woman teacher by name Kairali was also employed as an instructor in the driving school. The petitioner was in charge of running the school. It is the case of all concerned that there was intimate personal relationship between the deceased and the said Kairali. The said Kairali was behaving as a family friend of the deceased. There are

indications to show that she had gone along with the parents of the deceased and the deceased on a pilgrimage to Kollur. The said Kairali was married. She has a child in that wedlock. She was residing along with her son and her husband.

3. On the previous day of his death, ie. on 3.11.03, the deceased had left his house after dusk. He had allegedly reached the house of Kairali. The husband of Kairali and her child were not available in that house at that time. The deceased and Kairali were alone in that house. The deceased had removed his shirt also in the house of Kairali. The husband of Kairali unexpectedly returned to her house. He was disturbed and angry with the deceased, who was available in his house at that time of the night. He shouted at the deceased. He did not listen to or accept the explanations of the deceased. It is the case of the police that the deceased had thereafter left the house of Kairali.

4. These circumstances certainly aroused suspicion about the cause of death of the deceased. Was he done to death and later placed on the railway track to facilitate an explanation that he was run over by the train. This was the basic doubt that arose in the mind of the relatives of the deceased.

5. Initial investigation was conducted by one Sub Inspector of Police. After the said S.I, another S.I continued the investigation.

At that stage, complaints were raised and the District Superintendent directed that the Deputy Superintendent of Police must conduct the investigation. One Dy.S.P conducted the investigation followed by another Dy.S.P, who all came to the conclusion that it was a case of suicide. The deceased was frustrated by the experience in the house of Kairali and proceeded to the scene of his death and he allegedly lay on the railway track - half of the torso outside the railway track and the lower portion inside the railway track with his face down. After the train ran over, he was cut into two and the head portion was found situated about 61/2 m. away from the lower portion of the body which was found available on the railway track in the face down position. All the investigators came to the conclusion that the injuries were all suffered when the train was ran over him as he lay on the railway track with the intention to commit suicide.

6. The petitioner had come to this Court earlier with an application that the investigation may be entrusted to the crime branch. By order dated 16.03.2004 in W.P(C).No.7622/04, the said petition was dismissed. There were certain observations in the said decision. The petitioner later came to this Court with a contempt of court case alleging that the investigators have not complied with the directions issued by this Court. That petition was also disposed of by this Court later. This Court had directed that certain aspects deserve

to be gone into. The investigation was completed and report under Section 174 Cr.P.C was filed before the Sub Divisional Magistrate.

7. Long later, the D.G.P had directed further investigation and another Dy.S.P had conducted such investigation also. After all such investigation and after questioning all relevant witnesses, the police came to the conclusion that it was a case of suicide by the deceased and there was no foul play involved.

8. The petitioner is still unconvinced. One cannot find fault with the petitioner as there are certain circumstances which still create doubts. The learned counsel for the petitioner has made an attempt to marshal all the circumstances which according to him are inconsistent with the conclusion reached by the Investigating Officers. For those reasons, he submits that further investigation by the C.B.I deserves to be directed.

9. First of all it is contended that the state of mind of the deceased was not such that he would have thought of committing suicide. It is contended that the deceased was planning to start another branch for his driving school on the immediately following day and it appears rather unlikely that he would think of committing suicide on that day. On this aspect, the investigators appear to have riveted their pointed attention. It is the theory of the police that the unfriendly behaviour of the husband of Kairali when the deceased was

seen in the house without wearing shirt on that night in the absence of the husband of Kairali had instilled in the deceased a deep sense of shame. His reputation was at stake. Friends of the deceased who were questioned had revealed to the police his mind set as a person who was unable to accept criticism/shame for his own conduct. We have also indications from the statement of the said Kairali that the deceased was a superstitious person who believed that his end was near and that he would not survive to live after a period of one month for astrological reasons. The statement of the said Kairali also indicates that the deceased had a grievance that he was not cared for by people who were related to him. Suffice it to say that the totality of circumstances does not at all rule out the possibility of the deceased wanting to commit suicide. To me, it appears, that it may not be proper to discard the investigation by the successive investigators for the sole reason that there is no reasons to indicate that the deceased otherwise wanted to commit suicide.

10. Of what transpired in the house of Kairali on that night, we have the statements of some of the relatives and neighbours as also Kairali and her husband. There is nothing to indicate that there was any violence done to the deceased at the house of Kairali on that night. There is nothing at all to indicate that he had suffered any injuries at the house of Kairali or thereafter before his death on the

railway track. There is, of course, indication to show clearly that the husband of Kairali had become agitated and had used harsh words against the deceased. It is only natural to do so in the given circumstances. Crucially there is no indications that any other untoward incident had taken place in the house of Kairali. The evidence of the doctor clearly shows that the injuries suffered by the running over of the train were ante mortem and not postmortem injuries.

11. The Prosecutor relies on the circumstance that the lower portion of the torso was found in such a manner which indicated that he lay on the railway track face down waiting for the train and waiting for his eventual death. The portion of the body found in between the railway track indicates that and the medical officer has also tendered opinion on this probability by looking at the photographs as also descriptions in the inquest report. Position of the feet convincingly indicates this probability, it appears.

12. The learned counsel for the petitioner submits that the injuries found on the upper portion of the body which was severed from the body are not completely justified by the theory of death having been caused by being run over by a train. He builds his arguments from the premise that some other injuries are found on the hands and head of the deceased. The learned counsel for the

petitioner argues that it is not possible for those injuries to be present if death had taken place in the manner alleged by the prosecution.

13. I have been taken through the statements of the doctor. The opinion of the medical experts shows that all injuries are possible if a person wanting to suicide lies in that position and is run over by the train. It is true that all the injuries found on the upper portion of the body are not specifically explained. But one cannot lose sight of the fact that after the body was run over by the train, the upper portion was thrown from the point where the deceased lay to a distance of about 6 ½ m. While being so thrown off, by contact with the boulders/gravel available at the scene as also by contact with portions of the running train, those injuries are quite possible and cannot be ruled out. Presence of those injuries, according to me, are not sufficient to discard the theory of the police.

14. The learned counsel for the petitioner submits that slippers of the deceased which he was usually wearing have not been traced. They were not found at the scene of death. They were not seen at the residential premises of Kairali also. This certainly is a missing link. The police have not been able to trace the slippers which the deceased usually wore and which he must have been wearing at last when he went to the house of Kairali. But that missing link, according to me, is by itself not sufficient to throw overboard the

conclusions of the investigators. The same does not appeal to me as a sufficient reason to order a further investigation.

15. No other grounds are urged. I am satisfied, in these circumstances, that the consistent conclusion reached by the investigators need not be disturbed on the basis of the circumstances which have been relied on by the learned counsel for the petitioner. I have very anxiously gone through the entire case diary and the statements recorded by the investigators of the various witnesses. The conclusion appears to be inevitable that on the materials collected and shown to exist, no further investigation need be directed in this case.

16. This Writ petition is, in these circumstances, dismissed.

(R.BASANT, JUDGE)

rtr/-